

Resolution NO. 2026-01-141

A Resolution of the Board of Commissioners of DeKalb County, Tennessee to Regulate Data Centers.

Section 1. Purpose

It is the purpose of this resolution to regulate the operation and location of Data Centers in the unincorporated areas of DeKalb County, Tennessee in order to promote the health, safety, economic development and the unincorporated areas of DeKalb County, Tennessee.

Section II. Definitions

The following definitions shall apply in the interpretation and enforcement of this Resolution:

(a) Clerk means the County Clerk of DeKalb County, Tennessee.

(b) Commission means the Board of County Commissioners of DeKalb County, Tennessee, which is the legislative body of DeKalb County, Tennessee.

(c) County means DeKalb County, Tennessee

(d) Data Center means any facility, building, or portion thereof that houses computer systems and associated components, including but not limited to servers, networking equipment, telecommunications hardware, and storage systems, for the purpose of processing, storing, or transmitting digital information. This includes AI processing centers, server farms, cloud computing facilities, and similar operations. A data center shall be deemed to exist if it meets one or more of the following criteria:

1) **Physical Infrastructure:** Contains dedicated server racks, raised flooring for cabling, specialized cooling systems (air or liquid), or backup power systems such as generators or UPS units.

2) **Operational Characteristics:** Operates on a continuous or near-continuous basis (24/7 availability) and includes monitoring systems for uptime and performance.

3) **Cooling and Environmental Controls:** Utilizes industrial-scale cooling systems, water-based or air-based, specifically designed to maintain server operating temperatures.

5) **Connectivity:** Maintains high-capacity network connections (fiber or equivalent) for data transmission beyond typical office or retail needs.

(e) Operation means the operation of any facility, business, or activity in full compliance with all applicable regulatory standards and administrative requirements, including the timely obtaining, maintaining, and complying with all licenses, permits, certifications, registrations, and approvals required by local, county, state, and federal authorities, as well as any conditions attached to them.

(f) Person. The word "person" shall mean any individual, partner, corporation, company, trustee or association, together with the respective servants, agents and employees thereof.

(g) Residence means a place, in which a person lives or resides; a structure serving as a dwelling or living quarters. Residence includes but is not limited to single-family and multiple family dwelling units including without limitation, houses, apartment buildings, condominiums, dormitories and mobile and modular homes.

(h) Site. The term "site" shall mean any separately described parcel of land with an individual real property tax, map and parcel number.

Section III. Application for License

No person shall operate a data center without first obtaining the following from the County Clerk of DeKalb County Tennessee a standard Business License and a permit for the operation of a data center.

All state and or federal permits required and necessary to operate such an enterprise or activity regarding a data center shall be a prerequisite before obtaining an initial permit or business license to operate such an enterprise or activity from the County Clerk.

An applicant for a license shall furnish the following to the County Clerk in order to apply for a permit to operate a data center.

- (a) An application for a business license or permit to operate a data center.
- (b) A copy of the Permit issued by the State of Tennessee for the applicant to operate a data center for which the applicant is seeking the permit;
- (c) A copy of the applicant's deed or lease to the property on which the data center is proposed to be operated.
- (d) A map which shows the physical extent of the data center as to area, height, and depth, along with dimensions of the data centers along with activities to be conducted on the property; and

(e) A non-refundable application fee of \$150.00.

Upon receiving the foregoing information, the County Clerk will forward it to the Office of the County Mayor, who will determine whether the site of the proposed data centers meets the location requirements provided for in this resolution and report his/her findings to the County Clerk within ten (10) days.

(f) If a corporation or company is exempted by the state of Tennessee from requiring a business license or permit, the corporation or company must still comply with the distance requirements in Section VIII of this resolution.

SECTION IV - ISSUANCE OF LICENSE.

If the Mayor's findings confirm that the site of the proposed data center meets the location requirements, the County Clerk shall forthwith issue the standard business license and permit to data center.

If the Mayor's findings reflect that the site of the proposed data center does not meet the location requirements, the County Clerk shall within ten (10) days notify the applicant that the application must be denied due to the failure of the proposed site to meet the location requirements.

SECTION V - FEES.

(A) **Application Fee for Permit to Operate data centers.** A non-refundable fee of \$150.00 shall be paid to the clerk at the time of filing the application and required accompanying materials.

(C) **Renewal Fee for License to Operate Data Centers.** An annual fee of \$100.00 shall be required to renew a permit to operate data centers.

(D) The failure to pay the annual renewal fee shall not constitute a forfeiture or ground for revocation of any Permit granted under this Resolution provided such failure is rectified upon notification by the County Mayor. The foregoing fees shall be in addition to the fees required for a standard Business License.

SECTION VI -ADMINISTRATIVE PROCEDURE AND REVIEW

(A) As used in this section, "application" means: An application for a permit to operate data centers.

(B) Whenever an application is denied, the County Clerk shall notify the applicant in writing of the reasons for such action; such notice shall also advise the applicant of the applicant's right to request a hearing before the County Commission.

(C) If the applicant desires to request a hearing before the County Commission to contest the denial of an application, such request shall be made in writing to the County Mayor within ten (10) days of the applicant's receipt of the notification of the denial of the application. If the applicant timely requests such a hearing, a public hearing shall be before the County Commission at the next regularly scheduled County Commission meeting, which is at least ten (10) days from the date the request for hearing is received in the Mayor's Office.

SECTION VII- APPLICABILITY OF RESOLUTION TO EXISTING

BUSINESSES/GRANDFATHER CLAUSE.

The distance requirements set forth in Section VIII of this Resolution shall not apply to data centers in existence and in operation on January 29, 2026. Such data centers may continue to operate at the site where they are located on January 29, 2026. The owners of such data centers in existence and in operation on January 29, 2026 will (i) pay the annual fee for a Permit to operate such enterprises as provided in Section V of this Resolution; (ii) continue to maintain such data centers in operation at the site where it is currently located; and (iii) submit an application to the County Clerk to continue the operation of the data centers, accompanied with a map which shows the physical extent of the data centers, legal as to the area, along with a written description of the current activities being conducted on the property and the location where the current activities are taking place.

The grandfather protection provided in Section VII applies only to the site where the centers was in operation on January 29, 2026. The grandfather protection provided by this Section VII may not be transferred or used to operate data centers at any site or location other than the site or location where the data centers is currently in operation.

The grandfather protection provided by Section VII shall be forfeited only for the failure to continue to maintain such data centers in operation at the site where it is currently located for a period of thirty consecutive days. Failure to pay the annual fee, submit an application, map and/or description of activities shall not constitute a forfeiture of the grandfather protection provided by this Section VII provided such failure is rectified upon notification by the County Mayor. Likewise, failure to pay the annual renewal fee shall not constitute a forfeiture of any permit granted under this resolution provided such failure is rectified upon notification by the County Mayor.

SECTION VIII -PERMITTED LOCATIONS

Except as otherwise proscribed in this Section VIII data centers may be located in unincorporated areas of DeKalb County, Tennessee.

(B) Data centers may not be located within five thousand (5,000) feet of a residence, school, licensed daycare facility, park, recreation center, church, retail, commercial, professional or industrial establishment, and shall include properties used for normal agricultural activities, including small family farms, as defined under Tennessee Code § 5-1-118(b). Measurements shall be taken from the nearest recorded property line of the data center facility to the nearest proximity of the structure in question including residence, school, licensed daycare facility, park, recreation center, church, retail, commercial, professional or industrial establishment, and shall include properties used for normal agricultural activities, including small family farms, as defined under Tennessee Code § 5-1-118(b).

SECTION IX - SEVERABILITY

If any provision of this resolution is deemed invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the other provisions of this Resolution.

SECTION X -APPLICABILITY

- (A) This resolution shall apply only in the unincorporated areas of the county.
- (B) Nothing in this resolution may be construed to as prohibiting or in any way impeding any incorporated municipality in the county from exercising any power or authority the municipality may lawfully exercise.
- (C) Nothing in this resolution shall preempt an ordinance, regulation, restriction or license that was lawfully adopted or issued by any incorporated municipality in the county prior to the enactment of this resolution, or prevent or preempt any incorporated municipality in the county from enacting and enforcing in the future other lawful and reasonable restrictions, regulations, licensing, zoning or other civil or administrative provisions concerning the location, configuration, code compliance or other business operations or requirements to operate data centers.

This Resolution shall take effect immediately upon its passage by a two-thirds vote of the Commission, the public welfare requiring it. Duly adopted by the Board of County Commissioners of DeKalb County, Tennessee by a two-thirds vote this 29th day of January 2026 with ____ members voting in favor of the adoption of the Resolution and ____members voting in opposition of the adoption of the Resolution.

APPROVED this 29th day of January 2026.

_____ **COUNTY MAYOR**